

REMARKS/ARGUMENTS

The Office Action mailed January 24, 2005 has been reviewed and carefully considered. Claims 1-12, 14-18 remain pending in this application, with claims 1, 2, 11 and 18 being the only independent claim. Reconsideration is respectfully requested.

Claims 1, 2, 8-11 and 16-18 were rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. The claims have been amended to overcome this rejection.

Claims 1-18 were rejected under 35 USC § 103 (a), as obvious over Greuse (US 5,250,336) in view of Higgins (US 5,932,352). The claims have been amended and Arguments are presented to overcome this rejection as well.

Concerning the amendment of the claims to include a protective material comprising an opaque colored polymer backing sheet having a top and a bottom face, the opaque coloring being disposed in the interior of the backing sheet is supported by the specification, see page 2, line 16 and 33- page 3, line 1, et seq.

The Greuse reference discloses the use of a colored release layer or liner so as to not effect the coloring when peeling off a layer. Col. 2, line 13. Accordingly, Greuse discloses a layered system (label assembly), see for example Fig. 1, which shows the face stock layer 12, an adhesive layer 14, a colored release layer 16 covered by a backing layer 18. The colored release layer 16 combined with backing layer may also be referred to as "release liner". However, it is clear that only the release liner 16 is the colored layer. Nowhere it there any disclosure or indication that the backing sheet is the layer carrying the coloring. See legends 18, 28 and 50 and the associated disclosure. The examiner cites Col. 4, lines 49-56 as supporting that the colorant would could be applied to the backing layer. However, that passage states:

"While the application of color to release layer 34 is generally uniform, for ease of application, there is no need to limit the invention to such. In fact it is contemplated that the coloration of the release layer could very well be non-uniform by design 50 as shown in FIG. 4, thereby creating a patterned coating arrangement 52 on the release liner with the color variations producing desirable visual shading effects." Fig. 4 clearly show the colored release layer 52 from which the face stock has been lifted; the release layer 52 being positioned above the backing

layer 50. Applicants in contrast provide a colored backing sheet. The purpose is also different from what Greuse tries to accomplish: Applicants' accomplishes avoidance of abrasion on the punching tool, whereas Greuses' objectives are mainly to contain the coloring and avoid migration of the coloring into the pressure sensitive tape. However, Greuse uses the release layers 16, 26 or 40 or 52.

The secondary reference of Higgins can nor cure the deficiency of Greuse and in combination, one would not receive applicant's invention.

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw this rejection also. An early notice that this rejection has been reconsidered and withdrawn is, therefore, earnestly solicited. However, should the Examiner determine that any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be promptly resolved.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-

1263.

Respectfully submitted,
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